

§ 1309.72 Felony conviction; employer responsibilities.

(a) The registrant shall exercise caution in the consideration of employment of persons who will have access to listed chemicals, who have been convicted of a felony offense relating to controlled substances or listed chemicals, or who have, at any time, had an application for registration with the DEA denied, had a DEA registration revoked, or surrendered a DEA registration for cause. (For purposes of this subsection, the term "for cause" means a surrender in lieu of, or as a consequence of, any Federal or State administrative, civil or criminal action resulting from an investigation of the individual's handling of controlled substances or listed chemicals.) The registrant should be aware of the circumstances regarding the action against the potential employee and the rehabilitative efforts following the action. The registrant shall assess the risks involved in employing such persons, including the potential for action against the registrant pursuant to § 1309.43. If such person is found to have diverted listed chemicals, and, in the event of employment, shall institute procedures to limit the potential for diversion of List I chemicals.

(b) It is the position of DEA that employees who possess, sell, use or divert listed chemicals or controlled substances will subject themselves not only to State or Federal prosecution for any illicit activity, but shall also immediately become the subject of independent action regarding their continued employment. The employer will assess the seriousness of the employee's violation, the position of responsibility held by the employee, past record of employment, etc., in determining whether to suspend, transfer, terminate or take other action against the employee.

§ 1309.73 Employee responsibility to report diversion.

Reports of listed chemical diversion by fellow employees is not only a necessary part of an overall employee security program but also serves the public interest at large. It is, therefore, the position of DEA that an employee who has knowledge of diversion from

his employer by a fellow employee has an obligation to report such information to a responsible security official of the employer. The employer shall treat such information as confidential and shall take all reasonable steps to protect the confidentiality of the information and the identity of the employee furnishing information. A failure to report information of chemical diversion will be considered in determining the feasibility of continuing to allow an employee to work in an area with access to chemicals. The employer shall inform all employees concerning this policy.

PART 1310—RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES

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AUTHORITY: 21 U.S.C. 802, 827(h), 830, 871(b) 890.

SOURCE: 54 FR 31665, Aug. 1, 1989, unless otherwise noted.

§ 1310.01 Definitions.

Any term used in this part shall have the definition set forth in section 102 of

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the Act (21 U.S.C. 802) or part 1300 of this chapter.

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§ 1310.02 Substances covered.

The following chemicals have been specifically designated by the Administrator of the Drug Enforcement Administration as the listed chemicals subject to the provisions of this part and parts 1309 and 1313 of this chapter. Each chemical has been assigned the DEA Chemical Code Number set forth opposite it.

(a) List I chemicals

(1) Anthranilic acid, its esters, and its salts	8530
(2) Benzyl cyanide.....	8735
(3) Ephedrine, its salts, optical isomers, and salts of optical isomers	8113
(4) Ergonovine and its salts	8675
(5) Ergotamine and its salts.....	8676
(6) N-Acetylanthranilic acid, its esters, and its salts.....	8522
(7) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers	8317
(8) Phenylacetic acid, its esters, and its salts.....	8791
(9) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers	1225
(10) Piperidine and its salts	2704
(11) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers.....	8112
(12) 3,4-Methylenedioxyphenyl-2-propanone	8502
(13) Methylamine and its salts.....	8520
(14) Ethylamine and its salts	8678
(15) Propionic anhydride.....	8328
(16) Isosafrole.....	8704
(17) Safrole.....	8323
(18) Piperonal.....	8750
(19) N-Methylephedrine, its salts, optical isomers, and salts of optical isomers (N-Methylephedrine)	8115
(20) N-Methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers	8119
(21) Hydriodic Acid	6695
(22) Benzaldehyde.....	8256
(23) Nitroethane.....	6724
(24) Gamma-Butyrolactone (Other names include: GBL; Dihydro-2 (3H)-furanone; 1,2-Butanolide; 1,4-Butanolide; 4-Hydroxybutanoic acid lactone; gamma-hydroxybutyric acid lactone)	2011
(25) Red phosphorus	6795
(26) White phosphorus (Other names: Yellow Phosphorus).....	6796
(27) Hypophosphorous acid and its	

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salts (Including ammonium hypophosphite, calcium hypophosphite, iron hypophosphite, potassium hypophosphite, manganese hypophosphite, magnesium hypophosphite and sodium hypophosphite)	6797
(28) N-phenethyl-4-piperidone (NPP).....	8332
(29) Iodine	6699

(b) List II chemicals:

(1) Acetic anhydride.....	8519
(2) Acetone.....	6532
(3) Benzyl chloride.....	8570
(4) Ethyl ether	6584
(5) Potassium permanganate	6579
(6) 2-Butanone (or Methyl Ethyl Ketone or MEK)	6714
(7) Toluene	6594
(8) Hydrochloric acid (including anhydrous hydrogen chloride).....	6545
(9) Sulfuric acid	6552
(10) Methyl Isobutyl Ketone (MIBK)	6715
(11) Sodium Permanganate.....	6588

(c) The Administrator may add or delete a substance as a listed chemical by publishing a final rule in the FEDERAL REGISTER following a proposal which shall be published at least 30 days prior to the final rule.

(d) Any person may petition the Administrator to have any substance added or deleted from paragraphs (a) or (b) of this section.

(e) Any petition under this section shall contain the following information:

- (1) The name and address of the petitioner;
- (2) The name of the chemical to which the petition pertains;
- (3) The name and address of the manufacturer(s) of the chemical (if known);
- (4) A complete statement of the facts which the petitioner believes justifies the addition or deletion of the substance from paragraphs (a) or (b) of this section;

(5) The date of the petition.

(f) The Administrator may require the petitioner to submit such documents or written statements of fact relevant to the petition as he deems necessary in making a determination.

(g) Within a reasonable period of time after the receipt of the petition, the Administrator shall notify the petitioner of his decision and the reason therefor. The Administrator need not